

June 14, 1955

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Analysis of the Proposed Overseas

Allowances Act of 1955

Title I - Objectives, Definitions, and General Provisions

Sec. 101. This section states the objectives of the bill.

Sec. 111. This section defines terms used frequently in the bill. Two of the definitions affect geographic coverage. "Continental United States" is defined as the existing 48 States and the District of Columbia. Thus, Statehood for Alaska or Hawaii would not automatically terminate territorial allowances and differentials in those areas. The Trust Territory of the Pacific Islands is included under the foreign areas definition rather than the Territories and possessions since conditions of employment there are deemed to be more nearly comparable to relatively undeveloped foreign areas.

The term "employee" is left for specific definition in Presidential regulations. Varying bases of employment make it impossible to devise a concise definition which would include all qualified persons. It may be necessary to list specific groups in the regulations in order to assure coverage. Coverage, however, is limited to civilian personnel and would not include any uniformed personnel as defined in the Career Compensation Act of 1949, as amended.

Sec. 121. This section continues the provisions of existing legislation authorizing the President to establish rules regulating the payment of allowances and differentials for overseas service.

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Sec. 122. This section, as compared with existing statutes, extends eligibility for foreign post differentials and for territorial cost-of-living allowances, prevailing rate differentials and post differentials to employees whose rates of basic compensation are fixed administratively. Present authorities for these forms of compensation are limited to employees whose salaries are set by statute, such as the Classification Act and postal groups. Other existing overseas allowances are not restricted to any particular pay group. The proposed language permits payment of allowances and differentials to employees whose pay rates are fixed administratively only if their rates correspond with rates fixed for comparable work in the States and do not include amounts for purposes considered in allowances and differentials provided by this Act.

Sec. 123. This section provides authority for the President to designate the Panama Canal Zone (which is not covered under either (5) or (6) of Sec. 111) as either a Territory or possession or a foreign area if he determines it would be in the best interests of the United States to do so, for purposes of extending coverage of this Act to employees of the U. S. Government in that area. It is provided to assure continued payment of any allowances and differentials presently authorized for employees in this area under separate legislation, in the event such legislative authority should be terminated. A restriction is included that none of the allowances and differentials provided by this Act (except transportation of dependents for college-education purposes (Sec. 221(4)(ii) and payment of storage expenses (Sec.

241(c) may be granted to any group of employees in the Panama Canal Zone during any period that extra compensation is otherwise provided for such group.

Sec. 124. This section amends Sec. 912 of the Internal Revenue Code of 1954 to continue existing exemptions from Federal income tax

Title II - Allowances and Differentials in Foreign Areas

Sec. 201. This section restricts payment of foreign allowances and differentials to employees who are citizens or nationals of the United States and stationed in foreign areas, with provision for exceptions in the Act. Such exception is made in connection with storage expenses for non-citizen employees who are transported from one location to another in the interests of the U.S. Government.

Use of the term "stationed" rather than either "permanently stationed" or "assigned" which appear in other acts (See Act of June 26, 1930 - 5 U.S.C. 118a, and section 901 FS Act - 22 U.S.C. 1131) is deliberate. The word "permanently" is misleading since few employees remain at any one overseas post for assignments sufficiently long to be considered permanent. The average assignment is from two to four years. The word "assigned" might prevent payment of a differential to an employee during a long period of detail at a hardship post. The present general provision of law authorizing such payment (207 Ind. Off. Appro. Act of 1949 - 5 U.S.C. 118h) contains the word "stationed". However, an employee granted allowances would not be entitled to per diem while at the post at which such allowances are granted, although he could receive both per diem and allowances for periods when he is away from the post temporarily under official orders.

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Part A - Quarters Allowances

Sec. 211. This section consolidates the allowances provisions of the Act of June 26, 1930 (P.L. 445, 71st Cong., 46 Stat. 818) and of section 901(1) of the Foreign Service Act of 1946 (P.L. 724, 79th Cong., 60 Stat. 999) and makes certain revisions as indicated below:

- (1) The temporary lodging allowance, now available only to officers and employees of the Foreign Service, is extended to officers and employees of other agencies subject to the act.

A temporary lodging allowance of not in excess of one month is also provided at the conclusion of a tour of duty.

The provision in the Foreign Service Act of 1946 which restricts the amount that can be paid as a temporary lodging allowance to the aggregate amount of the per diem that would be allowed to the employee and the members of his family if they were in travel status is omitted.

- (2) The quarters allowance, provided by section 901(1) of the Foreign Service Act for the Foreign Service and by the Act of June 26, 1930, for officers and employees of all agencies whenever Government-owned or rented quarters are not provided without charge, is continued.

Water is added to the utilities covered by the quarters allowance.

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- (3) Provision is made for payment or reimbursement to personnel for unusual expenses incurred to repair or improve sub-standard dwellings in order to place them in habitable condition (e.g., installation of plumbing, wiring, etc. but not normal alterations or redecorating). Use of this authority will be subject to strict administrative controls. Exemption from RS-3648 (31 U.S.C. 529) permits the Government to advance funds to employees to meet landlords' demands for advance rental payments. Such requirements where housing is acute may be for as much as one year's rent. Employees in the lower and middle brackets seldom have money available to make advance payments and present legislation, with few exceptions, prohibits the Government's advancing rental allowances. Repayments will be controlled by regulation with full protection of the Government's interests.

Part B - Cost-of-Living Allowances

Sec. 221. This section provides for the following cost-of-living allowances for service in foreign areas:

- (1) Post Allowance: The proposed legislation gives permanent statutory authority to all agencies operating overseas to pay post allowances. Although the proposed language differs from that of existing legislation, there is no actual legal change.
- (2) Transfer Allowance: There is no difference between the scope of existing legislation and the proposed legislation relating to transfers between foreign areas.

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The proposed legislation also provides for a home service transfer allowance, to be payable only when the home assignment is between assignments to foreign posts.

- (3) Separate Maintenance Allowance: The proposed legislation changes the phrase "country of assignment" to "post of assignment" in order to make the administration of this allowance more flexible, practical, and economical.
- (4) Education Allowance: The proposed legislation is virtually identical to the language used in Sections 10(b) and 11 of P.L. 22 - 84th Congress, (amending the Foreign Service Act) which authorized an education allowance and payment of transportation costs for dependents for travel for purposes of obtaining secondary and college education.

Section 10(b) added the education allowance to the cost-of-living allowances under Section 901(2) of the Foreign Service Act, and since all agencies are authorized to pay cost-of-living allowances as authorized in that section, the education allowance is therefore available to all agencies as well as the Foreign Service.

The authority for transportation for education purposes is contained elsewhere in the Foreign Service Act and is not available to other agencies. The second part of this

section therefore adopts the language in the Foreign Service

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Act in order to provide the same transportation authority for education proposed for all employees in foreign areas.

Existing legislation authorizing the Defense Department to establish schools when needed is not affected.

Part C - Representation Expenses

Sec. 231. This section provides for amendment of the Administrative Expenses Act of 1946 (60 Stat. 806), as amended, to include in that Act authority for another normal and recurring operating expense incident to certain types of activities in the field of foreign relations and operations. This is the authority to use funds for representation purposes to promote official policies and programs so that the conduct of official contacts by U. S. representatives will compare favorably with that of representatives of other countries, and without personal cost to U. S. representatives. For the first time it would make this authority available to all agencies operating in foreign areas and to resident missions to international organizations, such as the United States Delegation to the United Nations. However, it is contemplated that only a very few agencies will need to make use of the authority. Regulations will prescribe the conditions and control the use of the authority.

Part D - Storage Expenses

Sec. 241. This section would extend to all agencies authority for payment of storage expenses similar to that now available to those agencies authorized to exercise certain authorities of the Foreign

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Subsection (a) amends the language of sections 911(4) and (5) of the Foreign Service Act to include certain provisions heretofore carried in the Department of State's Appropriation Acts. The "emergency" limitation of section 911(4) is eliminated, and the present language is designed to provide authority to pay storage and related costs in those instances (1) when an employee either cannot take or cannot use his effects at the post of assignment, or (2) when it would be in the public interest or more economical, as for example in lieu of quarters allowance payments while an employee is away from his post under orders, or in lieu of payment of transportation costs from one location to another. An automobile may be included with effects for storage under appropriate circumstances which will be defined in regulations.

Subsection (b) amends the language of sections 5(a)(1)(D) and (E) of the CIA Act. These two sections are identical to sections 911(4) and (5) of the Foreign Service Act and the proposed amendment is to continue language identical with the Foreign Service Act.

Subsection (c) amends the Administrative Expenses Act of 1946 by adding to section 1 thereof a new subsection to provide authority for all agencies to pay storage expenses on the same basis as provided for the Foreign Service and for CIA overseas employees, under like conditions. It will apply both to foreign areas and to the Territories and possessions.

Subsection (d) makes available the authority provided under subsection (c) for any employees of the Government when it is in

the public interest or more economical to store effects . Because

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is available for U. S. citizen civilian employees in the Panama Canal Zone, and for non-U. S. citizen civilian employees in either foreign areas or in the Territories or possessions.

PART E - Official Residence Expenses

Sec. 251. This section provides for amendment of the Administrative Expenses Act of 1946 (60 Stat. 806), as amended, to include in that Act the authority covering another normal operating expense incident to certain types of foreign activities. This is the authority to use funds for unusual housekeeping expenses for top officials. Heretofore authority for such expenses was restricted by section 902 of the Foreign Service Act to the principal officer at each post. Experience has shown that certain ranking subordinates and a limited number of top officials of other agencies are required by their positions to maintain residences substantially larger and more elaborate than their normal requirements because of prestige and official representation requirements. This authority will permit payment of the additional resultant costs as a regular item of expense for doing business in that country. Regulations will prescribe conditions and establish appropriate controls governing the use of funds for this purpose. An amendment to P.L. 341 (81st Congress), "An Act to amend the United Nations Participation Act of 1945" is included to continue authority for an official residence allotment to the U. S. delegate to the United Nations.

Part F - Post Differential

Sec. 261. This section continues and extends existing authority for payment of post differentials at foreign posts, based on undesirable conditions of environment, at rates not in excess of 25 percent

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of rates of basic compensation. Two authorities exist at present: section 443 of the Foreign Service Act, as amended; and section 207 of the Independent Offices Appropriation Act, 1949, as amended. The language of the two differs somewhat, but in accordance with standards set by Executive Order 10,000 the Department of State has established a single schedule of post differentials equally applicable under both authorities.

The proposed provision follows the language in section 207 of the Independent Offices Appropriation Act of 1949, as amended, which prescribes the differential for posts where conditions of environment are such that additional compensation is required as a recruitment incentive. Rates of salary differential will continue to be determined by careful analysis of conditions at each post or area. Resident Americans and certain other groups will be excluded, as at present, through regulation.

Title III. Allowances and Differentials in Territorial Areas

Sec. 301. This section restricts payment of the allowances and differentials provided under this title to employees who are citizens or nationals of the United States.

Sec. 302. This section defines for purposes of this title the circumstances under which employees are considered as recruited outside a territorial area and therefore entitled to the allowances and differentials provided. Under certain specified conditions persons recruited locally may be considered as recruited outside the territorial area. The basis for eligibility is that the individual is only temporarily present in the territorial area and that he has maintained residence outside such territorial area

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during the period of presence in the territorial area. It is not intended that dependents of persons employed by the U. S. Government or by public or private firms or organizations would be considered as recruited outside the territorial area.

Sec. 311. This section establishes a new differential called a prevailing rate differential. It is designed to enable agencies of the Government to meet competition from other employers in those areas where locally prevailing wage rates are considerably higher than the rates of basic compensation fixed by statute for certain types of work. In some localities it may be necessary to establish schedules of rates based on rates prevailing in the immediate employment area, or they may be based on rates prevailing in the Territory as a whole, or, in isolated areas where it is impracticable to establish a schedule of locally prevailing rates, it may be necessary to construct a schedule of rates based on rates prevailing elsewhere in the Territory for similar work under similar conditions. The prevailing rate differential is intended primarily for employees recruited locally, but authority is provided to pay this differential in lieu of the cost of living allowance and the post differential to employees recruited outside the area. This would be important should the prevailing rate differential be higher than the total of the allowable cost of living allowance and any post differential, in order to avoid dissatisfaction and resentment on the part of employees recruited from outside the area.

Sec. 321. This section continues existing authority for the territorial post differential, including the restriction to a maximum rate of

25%, provided by section 207 of the Independent Offices Appropriation Act, 1949, as amended. It will be payable only to persons recruited outside the territorial area, excluding those who are normally residents of the area.

Sec. 331. This section authorizes territorial cost of living allowances in territorial areas to offset differences from the cost of living in Washington, D. C. The new authority corresponds to the existing territorial cost of living provisions of section 207 of the Independent Offices Appropriation Act, 1949, as amended. The principal change is the elimination of a ceiling on the cost of living allowance. Such allowance rates will be governed by measurable differences between the cost of living in the territorial area and in the District of Columbia. It will be payable only to employees recruited outside the territorial area, except as authorized in section 341.

Sec. 341. This section provides that until regulations are issued under this title the status quo with regard to payment of allowances is maintained in territorial areas. As of the effective date of such regulations employees recruited locally who are receiving a cost-of-living allowance will, subject to certain modifications, continue to be eligible for the allowances provided by such regulations for employees recruited outside the territorial area, for a period of one year, provided they are continuously employed in the same area. However, such employees would not be entitled to any increase in allowances prescribed by the regulations and, further, the amount payable as allowances would be decreased by any amounts received as increases in basic compensation rates. In territorial areas where a prevailing rate differential is payable, an employee

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covered by this section would continue to receive the cost of living allowance during the one year period in lieu of the prevailing rate differential unless the differential to which he would be entitled at least equals the amount of his cost of living allowance, in which case he would be converted to the prevailing rate schedule.

TITLE IV - MISCELLANEOUS PROVISIONS

This title contains various technical provisions normally attaching to enabling legislation of this type. Provisions are included for authorizing appropriations, repealing specified statutes, maintaining rights and liabilities under repealed statutes, and continuance in force of existing rules, regulations, and executive orders until regulations under this Act rescind, modify, or supersede them.